



Water Quality NewsFlash

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Construction General Permit – State Superior Court gives OK to monitoring approach

– The General Permit for Discharges of Storm Water Associated with Construction Activity (99-08-DWQ) regulates stormwater and authorized non-storm water discharges from construction sites. (Caltrans construction site discharges are regulated by the Caltrans Statewide Permit, however, Caltrans is required to comply with the technical provisions of the Construction General Permit.).

As ordered by the Sacramento County Superior Court, the monitoring requirements of the Construction General Permit were revised and re-adopted last June by the State Board to address deficiencies. These sampling provisions are described in the permit Fact Sheet:

<http://www.waterboards.ca.gov/stormwtr/docs/finalconstpermit.pdf>. San Francisco BayKeeper and others (Case No. 99CS01929) again challenged the monitoring requirements. They were concerned that the sampling provisions established a subjective process with ambiguous criteria. On May 18, 2005, the Superior Court (Connelly) granted a motion that in effect upheld the current monitoring requirements. The decision also established that an exceedance of standards by itself is not a permit violation. If the site runoff causes statistically significant increases in sediment loads in waterways already impaired by sediment then the permittee must repair or implement additional BMPs. The violation occurs if appropriate BMPs have not been implemented or if the discharger does not carry out the iterative process of reviewing the SWPPP and improving BMPs in response to an exceedance. The main purpose of monitoring is to assess BMP effectiveness.

See *NewsFlash 04-24* for additional discussion of the monitoring issues. The decision is available from fkrieger@msn.com. The Board is planning to reissue this permit and a draft is expected in the common months.

Aquatic Toxicity of Common Compounds Used in Construction – State posts data on pollutants

– The State Water Resources Control Board has posted data compiled by Department of Fish & Game showing the aquatic toxicity of chemicals that could potentially be released at construction sites. The data list provides the *no observed effect concentration* (NOEC), which is based on toxicity testing. The NOEC is a concentration level at which aquatic organisms are not likely to be affected. In addition, the table lists the amount of dilution required for the pure product to be diluted to safe levels. Interestingly, one of the least toxic of the chemicals listed is hydraulic oil with a 20 to 1 required dilution. Some of the most toxic chemicals are those used in water treatment and which have required dilutions of 1,000,000:1. *WQ NewsFlash 04-46* discussed the enhanced monitoring requirements set by the Central Valley Regional Board for construction site runoff treatment facilities because of the high toxicity of some treatment chemicals.

As specified in the Construction General Permit, only storm water and authorized non-storm water discharges are allowed at construction sites. The chemicals on the DFG list cannot be intentionally discharged even with dilution. Some may be incidentally included in the runoff and the list can be useful in helping to determine the level of effort devoted to the control of these chemicals. http://www.waterboards.ca.gov/stormwtr/docs/pure_product_toxicity.xls

WQ NewsFlash is a weekly update of storm water and related news for the Department. *Verify information before taking action on these bulletins.* Contact Betty Sanchez, Betty_Sanchez@dot.ca.gov (916) 653-2115, or Fred Krieger, (510) 843-7889, fkrieger@msn.com with questions or to be added or deleted from e-mail list. Posted online at: <http://www.dot.ca.gov/hq/env/stormwater/publicat/newsflash/index.htm>